

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 4282 of 2005

Between:

R. Agum Goud S/o. Rajaiah Goud, (Owner of the TATA Mobile Van bearing No. AP-28D-3502) R/o. 1-6/1, Uppal, R.R. District.

..... PETITIONER

AND

- 1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division, Opp: Exhibition Grounds, J.N. Road, at Nampally Hyderabad.
- 2 The Sub Inspector of Prohibition & Excise, (SHO) Secunderabad Circle, at Karkhana, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the proceedings in Cr. No. C3/230/2005, dt. 01-3-2005 and Crime No. 125 of 2004-95, dt.

18-1-2005 of the 1st and 2nd respondents as illegal, in respect of TATA Mobile Van bearing No. AP-28D-3502, in pursuance of the Excise Policy para 16 of the present Excise Policy issued G.O. Ms. No. 767 Revenue (Excise -II) Department, dt. 29-9-2004, and pass such other order or orders which are necessary in the interest of justice.

Counsel for the Petitioner: MR.B.SAI RAM GOUD

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Petitioner, aggrieved by the order of the first respondent in insisting him to furnish F.D.R. equivalent to the value as assessed by the Motor Vehicles Inspector to release the vehicle bearing No. AP 28 D 3502 towards interim custody, filed this writ petition.

It seems that the vehicle of the petitioner was seized allegedly while carrying toddy and a case in crime No. 125 of 2004-05 was also registered to that effect. It further seems that when the petitioner approached the first respondent seeking interim custody of the vehicle, the first respondent insisted the petitioner to furnish F.D.R, equivalent to the value as assessed by the Motor Vehicles Inspector, to release the vehicle in question. Hence the present writ petition.

However, when the matter is taken up for hearing, the learned counsel for the petitioner brought to the notice of this Court that the matter is squarely covered by the order of this Court in WPMP No. 5178 of 2005 in W.P. No. 3836 of 2005, which reads as under:

“Having regard to the facts and circumstances of the case, I

feel it expedient, in the light of the interim order passed by another learned judge of this Court in WPMP No 26043 of 2004 in W.P. No. 19907 of 2004 to direct the 1st respondent to release the lorry bearing No. AP 28T 9117 to the petitioner on the condition of the petitioner furnishing a written undertaking to the first respondent not to alienate or otherwise dispose of the lorry pending finalization of further proceedings under A.P. Excise Act and on further undertaking to produce the same as and when required by the 1st respondent”.

In that view of the matter, this writ petition is disposed of at the stage of admission directing the first respondent herein to release the vehicle bearing No. AP 28 D 3502 to the petitioner on condition of the petitioner furnishing an undertaking to the respondent not to alienate the vehicle or otherwise dispose of the same pending finalisation of further proceedings under the A.P. Excise Act and on further undertaking to produce the vehicle as and when required by the first respondent.

kvsn 16-03-2005

To

1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division, Opp:
Exhibition Grounds, J.N. Road, at Nampally Hyderabad.

2 The Sub Inspector of Prohibition & Excise, (SHO) Secunderabad Circle,
at Karkhana, Secunderabad.

3 Two CCs to GP for Excise, High Court buildings, Hyderabad.

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